

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 469 of 1982

WITH

CIVIL APPLICATION NO. 5010 OF 1983

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

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UNBRAVADAN C CONTRACTOR

Versus

PRESIDENT, SOMNATH KELAVANI MANDAL

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Appearance:

MR JD AJMERA for Appellants

NOTICE SERVED for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 03/11/98

ORAL JUDGEMENT

The appellant, failing in Spl. C.A. No. 1934 of 1982, has preferred this Letters Patent Appeal. It appears that the appellant preferred Special Civil Application No. 4541/81 and 1934/82 which was heard with Special Civil Application No. 4554/81. Learned Single Judge, on 10.12.1982, discharged the rule.

2. It appears that the subject matter of the petition was termination of service of a teacher serving in a primary school. At the relevant time, there was no statutory provision and learned Single Judge considered the reported decision reported in 17 GLR 461 in the JAYANTILAL THAKKAR vs. STATE OF GUJARAT & ORS. wherein the Court held that the petition is not maintainable and at the most in the opinion of the learned Single Judge, proceedings can be initiated for de-cognition or withdrawal of recognition of the school. Learned Judge

after rejecting all the contentions, while discharging rule, made interim relief operative for a period of one month so as to enable the teachers to have further recourse in accordance with law.

3. At the relevant time, relations so far as Primary Teacher is concerned, were different. Security of tenure was governed by master-servant relation or by contract.

4. In view of the facts and circumstances prevailing at the relevant time, it cannot be said that the decision requires any interference. However, it is required to be noted that the learned Judge has permitted the Teacher to approach the appropriate Forum. We make it clear that it is still open for the applicant to move the appropriate forum, if law permits. With these observations, the appeal is dismissed.

5. In view of the aforesaid order passed in the appeal, C.A. No. 5010/83 is also required to be rejected, and is rejected.

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